

AMENDED IN SENATE JUNE 28, 2010

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 1341

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Introduced by Assembly Member ~~Saldana~~ *Bonnie Lowenthal*

February 27, 2009

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~~An act to amend Section 276 of the Revenue and Taxation Code, An act relating to taxation.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1341, as amended, ~~Saldana~~ *Bonnie Lowenthal*. ~~Taxation: disabled veterans' exemption. Property taxation: possessory interests: Long Beach Courthouse.~~

*Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive.*

*This bill would clarify that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a project agreement and related agreements entered into by the Judicial Council with a nongovernmental entity, as specified, for the purpose of replacing the Long Beach Courthouse, if specified criteria are met. This bill would state that its provisions are declaratory of existing law.*

*This bill would make legislative findings and declarations as to the necessity of a special statute.*

~~Existing property tax law provides, pursuant to the authorization of the California Constitution, for the exemption from property taxation of specified amounts of the assessed value of the home of a disabled veteran, or a veteran's spouse in the case in which the person has, as a result of a service-connected disease or injury, died while on active duty in military service.~~

~~This bill would correct an erroneous cross reference and remove obsolete references to prior exemption amounts.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*  
3     *(a) The existing courthouse located on 415 West Ocean*  
4     *Boulevard in the city of Long Beach is in unsatisfactory physical*  
5     *condition, is a potential public safety risk to court staff and the*  
6     *public, and is in need of immediate replacement.*  
7     *(b) This act is intended to expedite the facility's replacement*  
8     *by resolving a disputed property tax issue that could potentially*  
9     *delay the replacement project and add an element of unpredictable*  
10    *financial risk to the project's public sponsor.*  
11    *(c) It is the intent of the Legislature in enacting this act to*  
12    *provide legislative direction to county assessors, the State Board*  
13    *of Equalization, the courts, and other involved parties regarding*  
14    *the interpretation of the term "independent" as it relates to the*  
15    *Long Beach Courthouse.*  
16    *(d) This act does not constitute a change in, but is declaratory*  
17    *of, existing law. Therefore, no state law, including, but not limited*  
18    *to, Section 8 of Article XVI of the California Constitution, requires*  
19    *reimbursement to any entity for any ad valorem property tax*  
20    *revenue losses that may result from this act.*  
21    *SEC. 2. (a) For purposes of paragraph (1) of subdivision (a)*  
22    *of Section 107 of the Revenue and Taxation Code, there is no*  
23    *independent possession or use of land or improvements if that*  
24    *possession or use is pursuant to a project agreement and related*  
25    *agreements entered into by the Judicial Council with a*  
26    *nongovernmental entity in accordance with Section 70391.5 of the*

1 *Government Code for the purpose of replacing the Long Beach*  
2 *Courthouse, if all of the following criteria are met:*

3 *(1) The nongovernmental entity is required to design, build,*  
4 *finance, operate, and maintain the Long Beach Courthouse.*

5 *(2) The Judicial Council establishes performance expectations*  
6 *and benchmark criteria for the court facility proposal in*  
7 *accordance with Section 70391.5 of the Government Code that*  
8 *serve as the basis for the selection of the nongovernmental entity.*

9 *(3) The Judicial Council and other governmental entities have*  
10 *exclusive use and control of the Long Beach Courthouse land and*  
11 *improvements for court and related activities for a term of 35*  
12 *years.*

13 *(4) The Judicial Council holds title to the land and improvements*  
14 *of the Long Beach Courthouse.*

15 *(5) The nongovernmental entity is not treated as the owner of*  
16 *the improvements of the Long Beach Courthouse for any purpose,*  
17 *including federal income tax purposes, and does not take as a*  
18 *deduction any depreciation on the improvements.*

19 *(6) Any lease-leaseback of land and improvements of the Long*  
20 *Beach Courthouse with the nongovernmental entity is solely for*  
21 *the purpose of providing security for the payment by the Judicial*  
22 *Council of the service fee for services provided by the*  
23 *nongovernmental entity in connection with a court facility.*

24 *(b) This section shall not apply to any lease of, or improvements*  
25 *to, the Long Beach Courthouse by the Judicial Council with a*  
26 *nongovernmental entity to the extent the land or improvements*  
27 *are used by the nongovernmental entity as commercial office space,*  
28 *retail space, or paid parking spaces not designated for use for*  
29 *governmental purposes or court facilities.*

30 *SEC. 3. The Legislature finds and declares that a special law*  
31 *is necessary and that a general law cannot be made applicable*  
32 *within the meaning of Section 16 of Article IV of the California*  
33 *Constitution because of the need to resolve the property tax issues*  
34 *potentially delaying the Long Beach Courthouse replacement*  
35 *project and to mitigate the attendant risks of that delay to the*  
36 *citizens of the County of Los Angeles and the State of California.*

37 ~~SECTION 1. Section 276 of the Revenue and Taxation Code~~  
38 ~~is amended to read:~~

39 ~~276. (a) Except as otherwise provided by subdivision (b), for~~  
40 ~~property for which the disabled veterans' exemption described in~~

1 Section 205.5 was available, but for which a timely claim was not  
2 filed, a partial exemption shall be applied in accordance with  
3 whichever of the following is applicable:

4 (1) Ninety percent of any tax, including any interest or penalty  
5 thereon, levied upon that portion of the assessed value of the  
6 property that would have been exempt under a timely and  
7 appropriate claim shall be canceled or refunded, provided that an  
8 appropriate claim for exemption is filed after 5 p.m. on February  
9 15 of the calendar year in which the fiscal year begins but on or  
10 before the following December 10.

11 (2) If an appropriate claim for exemption is filed after the time  
12 period specified in paragraph (1), 85 percent of that portion of any  
13 tax, including any interest or penalty thereon, that was levied upon  
14 that portion of the assessed value of the property that would have  
15 been exempt under a timely and appropriate claim, shall be  
16 canceled or refunded. Cancellations made under this paragraph  
17 are subject to the provisions of Article 1 (commencing with Section  
18 4985) of Chapter 4 of Part 9. Refunds issued under this paragraph  
19 are subject to the limitations periods on refunds as described in  
20 Article 1 (commencing with Section 5096) of Chapter 5 of Part 9.

21 (b) If a late-filed claim for the one-hundred-fifty-thousand-dollar  
22 (\$150,000) exemption is filed in conjunction with a timely filed  
23 claim for the one-hundred-thousand-dollar (\$100,000) exemption,  
24 the amount of any exemption allowed under the late-filed claim  
25 under subdivision (a) shall be determined on the basis of that  
26 portion of the exemption amount, otherwise available under  
27 subdivision (a), that exceeds one hundred thousand dollars  
28 (\$100,000), as applicable.

29 (c) For those claims filed pursuant to subdivision (a) after  
30 November 15, the exemption under that subdivision may be applied  
31 to the second installment. If that exemption is so applied, the first  
32 installment is still delinquent on December 10, and is subject to  
33 delinquent penalties provided for in this division if that installment  
34 is not timely paid. A refund shall be made to the taxpayer upon a  
35 claim submitted to the auditor if the exemption is applied to the  
36 second installment and either of the following is true:

37 (1) Both installments are paid on or before December 10.

- 1     ~~(2) The reduction in taxes resulting from the exemption exceeds~~
- 2     ~~the amount of taxes due on the second installment.~~

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